

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4624 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DANOO TEXTILE PROCESSING CO. AHMEDABAD

Versus

UNION OF INDIA & OTHERS

Appearance:

MS MAMTA VYAS for the Petitioner

None present for the respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/08/96

ORAL JUDGEMENT

1. Heard learned counsel for the petitioner. The petitioner prayed for issuance of the direction to the respondents restraining them from withholding and directing the respondents to deliver the coal wagon at the same price of coal and same freight charges as per R.R. at the place of destination.

2. The petitioner has come up with a case that it has prepaid the price for coal wagon, the details of

which has been given in Para 5 of this Special Civil Application. Instead of delivering the goods to the petitioner, the respondent authority had diverted the said coal wagon to Ukai Power House. That action has been challenged and prayer has been made as aforesaid.

3. The petitioner has not filed the original R.R., the details of which has been given in Para 5 of this Special Civil Application. In the absence of the original R.R. it is difficult to accept the claim of the petitioner. In the absence of the original R.R. it is not safe to accept the claim of the petitioner. There is possibility of taking the delivery of the goods by the petitioner under the original Railway receipt. It is easy to say that the original R.R. has been surrendered to the Goods Supervisor at the time of adjustment of one wagon out of two. No explanation has been given whatsoever that why the petitioner has not taken back the original R.R.. Otherwise also these are the matters which should be taken up by the petitioner by filing the Civil suit and not by way of this Special Civil Application. The counsel for the petitioner is unable to cite any provision whereunder the respondent could not have power or authority to divert the steam coal to the establishments which are provided under Essential Services. It is also not the case of the petitioner in the writ petition that the diversion of the steam coal could not have been made or the Railway authorities were not competent to do so.

4. In view of this fact, at the most it only remains the matter of price to be claimed by the petitioner for the expenses incurred for the coal wagon which has been said to be diverted by the Railway authorities to Ukai Power House. In the present case no legal or fundamental right of the petitioner has been infringed.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged.

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